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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,352	11/22/2005	Volker Spiegel	117040.00087	7159
21324 7590 08/20/2009 HAHN LOESER & PARKS, LLP One GOJO Plaza Suite 300 AKRON, OH 44311-1076				
EXAMINER				
MILLER, SAMANTHA A				
ART UNIT		PAPER NUMBER		
3749				
NOTIFICATION DATE		DELIVERY MODE		
08/20/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@hahnlaw.com  
akron-docket@hotmail.com

### Office Action Summary

**Application No.**

10/535,352

**Applicant(s)**

SPIEGEL ET AL.

**Examiner**

SAMANTHA A. MILLER

**Art Unit**

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)  
Paper No(s)/Mail Date 2/27/2006
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 1—18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Groups II and III there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 5/19/2009.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by KUTT (2002/0035927).

KUTT teaches:

. Claim 1 Adding to the room a nitrogen or a nitrogen-bearing (para.0036, 0090, and 0363 describe adding nitrogen to the room), carbon dioxide-poor (by adding ambient air, para.0098 and scrubbing the carbon dioxide , para.0095) gas mixture until the proportion of oxygen in the room air is less than 20.9% by volume (or less than ambient air, para.0079-0080) and the proportion of carbon dioxide of the room air is less than 1% by volume (para.0084, or not exceeding 1,000 ppm which is .1% by volume), and maintaining at least a slight overpressure in the room in relation to an outside

atmosphere surrounding the room (para.0274-0279, maintains the room at overpressure for checking leaks).

Claim 2 Removing air from the room for reconditioning such that the room air is passed in a circulatory air mode (para.0098-0099).

Claim 3 A room air exchange caused by the circulatory air mode in the recreation room is so adjusted that a homogeneous atmosphere prevails in the recreation room (para.0098-0099).

Claim 4 A proportion of carbon dioxide of the room air is replaced in the circulatory air mode by replacement of a proportion of the room air by carbon dioxide-poor air of the outside atmosphere with a normal proportion of oxygen (para.0098), wherein the proportion of the room air exchanged in the circulatory air mode is so adjusted that the room air maintains a concentration of carbon dioxide below fixed limit values of up to 0.65% by volume (para.0109, or not exceeding 1,000ppmv which is .1% by volume).

Claim 5 Chemically reducing the proportion of carbon dioxide in the circulatory air (para.0094).

Claim 6 Treating the room air which is passed in the circulatory air mode as required by regulated ionization in such a way that the room air with a low carbon dioxide content and a reduced proportion of oxygen in relation to the outside atmosphere maintains an air quality which does not differ substantially from the quality of the outside atmosphere over a plurality of circulatory air cycles (para.0109).

Claim 7 Supplementing the room air by mixing the room air with the gas mixture at an overpressure or a reduced pressure (para.0274-0279).

Claim 8 Supplementing the room air by mixing the room air with the gas mixture is performed in a mixing chamber to which the components of the gas mixture to be mixed are fed at an increased pressure or a reduced pressure in dependence on the desired gas mixture of the mixing chamber (para.0274-0279).

Claim 9 The gas mixture is mixed from air of the outside atmosphere and nitrogen (para.0098-0099).

Claim 10 The step of measuring and adjusting at least one of the properties of the circulatory air such as air humidity, air temperature or the like in a regulated fashion (para.0112).

Claim 11 The nitrogen-bearing gas mixture is produced by air separation of air provided from the room air by means of a separation installation (Fig.10).

Claim 12 The nitrogen-bearing gas mixture is produced by air separation of ambient air (para.0363 and 0098).

Claim 13 An oxygen-enriched gas mixture having a proportion of oxygen of more than 21% by volume is produced in the air separation operation and is added to a second room (in the low altitude room i.e. high oxygen mode, para.0090 and para.0062; since the ambient oxygen level is 20.9% by volume it is inherent that to have a high oxygen level would be higher than the ambient level or more than 21% by volume) so that the room air in the second room has an oxygen content which is increased in relation to the ambient air.

Claim 14 The room air with the increased oxygen content in the second room is treated (refer to claims 1-10).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samantha A. Miller whose telephone number is 571-272-9967. The examiner can normally be reached on Monday - Thursday 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve McAllister can be reached on 571-272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Samantha Miller  
Examiner  
Art Unit 3749  
7/20/2009  
/Steven B. McAllister/

Supervisory Patent Examiner, Art Unit 3749

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Art Unit: 3749

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